

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
Helena Headquarters
1420 East 6th Avenue
Helena, MT 59620

MARCH 10, 2005

Commission Members Present: Steve Doherty, Chairman; Tim Mulligan, Vice-Chairman, John Brenden, Shane Colton, Victor Workman.

Fish, Wildlife & Parks Staff: Jeff Hagener, Director; FWP personnel.

Guests: See March, 2005 Commission file folder.

Topics of Discussion:

- 1. Opening - Pledge of Allegiance**
- 2. Approval of February 10, 2005 Commission Minutes**
- 3. Approval of Commission Expenses through February 28, 2005**
- 4. Assignment of Commissioners to FWP Councils / Committees**
- 5. Canyon Ferry Reservoir Commercial Fishing Regulations – Tentative**
- 6. Future Fisheries Projects – January, 2005 Funding Cycle – Final**
- 7. Paddlefish Roe Advisory Committee Appointments – Final**
- 8. Jefferson River Emergency Spawning Closure Regulations – Final**
- 9. Blackfoot River Recreation Rules - Final**
- 10. Public Opportunity to Address Issues Not Discussed at this Meeting**

1. Opening - Pledge of Allegiance. Chairman Steve Doherty called the meeting to order at 2:00 p.m. and led the Pledge of Allegiance.

2. Approval of February 10, 2005 Commission Minutes.

Action: Workman moved and Mulligan seconded the motion to approve the minutes of the February 10, 2005 meeting. Motion carried.

3. Approval of Commission Expenses through February 28, 2005.

Action: Workman moved and Brenden seconded the motion to approve the Commission expenses through February 28, 2005 as presented. Motion carried.

4. Assignment of Commissioners to FWP Councils / Committees. Hagener informed the Commission that TipMont is hosting a national meeting April 24-26 in Great Falls, and they would like a Commission delegate to address the group. Mulligan agreed to serve as the Commission delegate on the TipMont Board, Brenden will serve on the Variable Priced Licensing Committee, Colton will serve on the PLPW Council, and Workman will serve on the Alternative Livestock Council.

5. Canyon Ferry Reservoir Commercial Fishing Regulations – Tentative. Chris Hunter, FWP Fisheries Division Administrator, said the Commission is authorized by statute to approve one commercial fishing operation per body of water and establish regulations for each. Richard and Donna Greene of Townsend have applied for, and received, permits the last two years to harvest carp from Canyon Ferry Reservoir, and wish to apply again this year. An EA was done last year with no opposition, and was supported by anglers. Public comment will be solicited if this permit application is approved.

Hunter stated that the Greenes recently submitted a supplement to their application requesting permission to fish Lake Helena also. The Fisheries Division has not yet had an opportunity to review this request, therefore he would like to present the entire application to the Commission at the April meeting as a final proposal, rather than taking action on only a portion at this time. Following discussion, it was agreed that the Department will review the application, draft regulations as needed, then forward the information to the Commissioners for approval. Upon Commission approval, these tentative regulations will be presented to the Commission for final action at the April meeting.

Action: Mulligan moved and Brenden seconded the motion to approve the tentative commercial fishing regulations on Canyon Ferry Reservoir, and approve the tentative commercial regulations on Lake Helena providing no objections are expressed by the Commission upon review of the proposed regulations as drafted by the Department. Motion carried.

6. Future Fisheries Projects – January, 2005 Funding Cycle – Final. Glenn Phillips, FWP Fisheries Division Habitat Bureau Chief, explained that the Future Fisheries Program was developed in 1995 specifically for the enhancement of wild fish habitat. It is a very popular program with nearly 400 projects having been completed. Funding recommendations are made by a fourteen-member citizen review panel that evaluates the proposed projects. These recommendations are presented to the Commission for approval. Two funding cycles are presented to the Commission each year, and a drought mitigation cycle may also come forward. Twenty-three applications were received for this funding cycle. The panel recommended funding twenty-one of them at a cost of \$433,458.

Mulligan questioned if proposal #17 would be an annual request for maintenance of the windmills used in aerating ponds in Blaine, Phillips and Valley counties. Phillips responded that there probably will be some maintenance costs associated with this project. The windmills were originally purchased with Future Fishery funds. Mulligan said it would be beneficial to know how often these requests would come before the Commission.

Mulligan questioned where the reed canary grass came from originally in proposal #19 (Sanders County along the Thompson River) and what assurance there is that it won't grow back. Phillips said they are putting a mat down and once the newly planted shrubs take hold, they will take over.

Mulligan asked how high the fence will be in proposal #22 (Willow Creek in Madison County in the upper Ruby drainage). That area has a long history of fence issues blocking corridors. He asked what

impact it will have, how long will it be, and how high will it be. Phillips said most fences are wildlife friendly, however they will investigate the proposal further.

Brenden asked for an overview of proposal #1 (Antelope Creek in Madison and Jefferson Counties) and proposal #2 (Ashby Creek in Missoula County).

Antelope Creek is a tributary of the Jefferson River. This project would consist of building 1,000 feet of new channel that will be deeper and narrower to improve sediment transport. Pools will be developed in anticipation of recruiting additional spawning areas, bed control structures will be installed, riparian fencing will be installed to assist in grazing management, and an existing diversion system will be replaced with a center pivot system. The KG Ranch will pay for the pump and the sprinkler. Permits are required from the Army Corp of Engineers, DNRC, DEQ, and the Conservation District.

The upper reaches of Ashby Creek support pure Westslope Cutthroat Trout. This application is from the Five Valley Land Trust to restore two miles of streambed and wetlands on their property, which is being placed in a perpetual conservation easement. The project consists of revegetation of the riparian area, installation of a riparian fence, and construction of a fish ladder around an irrigation diversion. This proposal is designed to improve habitat for Westslope cutthroat trout.

Brenden questioned proposal #18 (Telegraph Creek in Phillips County). He pointed out that Eastern Montana does not get involved in many of these projects due to the fact that there isn't the amount of streams located there, and applications are few. He questioned why this proposal was recommended at reduced funding. Phillips said this application came from the American Prairie Foundation who hopes to restore the stream to its original condition through construction of artificial beaver dams that would restore residual pool volume and riparian vegetation that disappeared when beavers were removed from the drainage. Prairie streams typically quit flowing in the summer, however fish survive in residual pools. Phillips said the reduction in funding eliminated only the data collection and pre-monitoring portions of the application, as they are not allowable expenses. Projects must be for construction purposes.

Brenden feels the Foundation has resources available to complete the project themselves, and suggested the money be diverted to the Fort Peck area and/or the Fort Peck Hatchery. Hagener said these funds are earmarked specifically, and must be applied for. Additionally, according to statute, the Fort Peck Hatchery may only be funded through Warm Water Stamp dollars. Mulligan said these proposals have not spoken for all the money available anyway, so it would be to no advantage to disapprove this project.

Action: Mulligan moved and Workman seconded the motion to approve the Future Fisheries projects in the amount of \$433,458 as recommended by the Department. Mulligan amended his motion to reflect that assurance be made that proposal #22 on Willow Creek includes "wildlife friendly" fencing. Workman seconded the amendment. Motion carried.

7. Paddlefish Roe Advisory Committee Appointments – Final. Chris Hunter, FWP Fisheries Division Administrator, explained that in the 1980's the Glendive Chamber of Commerce realized the value of the paddlefish roe that was being discarded. They prepared legislation to authorize a single organization to sell the roe and use the proceeds toward historical, cultural, recreational, and fish and wildlife projects. Each year approval of their five-member advisory committee is required. This year's committee appointments are the same as last year.

Action: Brenden moved and Mulligan seconded the motion to approve the Paddlefish Roe Advisory Committee as recommended by the Glendive Chamber of Commerce and the Department, and to enter into a MOU with the Glendive Chamber of Commerce for the 2005 paddlefish season. Motion carried.

8. Jefferson River Emergency Spawning Closure Regulations – Final. Chris Hunter, FWP Fisheries Division Administrator, said this regulation evolved from a work session last fall where concerned anglers met with the Commission to express their concerns regarding the trends of the fish populations in the Jefferson River. There continues to be potential for high fish mortality at the two vital spawning locations at the mouths of two streams entering the Jefferson, which are Hell's Canyon Creek and Willow Springs. This affects all species of fish, not exclusively trout. The proposed emergency regulations are to implement seasonal closures, applicable to all species, within 100 yards (both ways) of the mouths of the two spawning streams, effective April 1- April 30 to primarily provide Rainbow Trout spawning protection, and effective October 15 – November 30 to primarily provide Brown Trout spawning protection.

Action: Mulligan moved and Workman seconded the motion to approve the emergency fishing regulations on the Jefferson River which would close it to fishing as posted 100 yards above and below the mouths of Willow Springs and Hell's Canyon Creek from April 1 – April and from October 15 – November 30 for all species. Motion carried.

9. Blackfoot River Recreation Rules – Final. Doug Monger, FWP Parks Division Administrator, said that last December the Commission approved administrative rules giving FWP authority to implement special recreation permits for commercial, competitive and organized groups using the Blackfoot River. The Department has been working with a recreational steering committee for a number of years, involving many people.

Public comment was requested on three specific items: 1) The draft administrative rules, 2) Group size limits on the river, and 3) Commission rules for permit fees on the river.

FWP received 60 comments in support of the rules, and seven in opposition of the rules. The intent is to follow and implement the statewide river recreation rules on this river corridor. This rule will establish a mechanism to monitor use, set up a fee structure, and devise a means to cooperatively manage the River with BLM.

Based on public comments, clarifications were made to the Administrative Rule; the essence of the rule remained the same. Clarifications explained what is meant by public land, and what is meant by publicly advertised events. It was clarified that transferability of commercial permits does not limit outfitters on the river. Also clarified in the rule was that private landowners do not need a permit to hold an event on their own land. The Department's intent is to make it clear that the rule does not give the Department authority to limit uses on the river - that it is not a restrictive rule.

Brian Maiorano, Bureau of Land Management, said regulations require that BLM issue special recreation permits for organized and commercial events adjacent to their land, so if the Commission does not adopt this rule, they will have to. They strongly want a seamless approach to alleviate the public's need to go to more than one agency to get permits for different segments of the river.

Monger noted that BLM is also contributing financially toward management of the river.

Workman asked what this rule will accomplish other than collect data. Monger replied that it establishes a mechanism for future management and monitoring of use. It establishes a mechanism to

put into the biennial fee rule for setting fees. Mulligan added that it provides an opportunity to work with the Bureau of Land Management as well.

Brenden questioned the use of the rule-making process. A Memorandum of Understanding is more flexible for annual review, as opposed to rules that make it difficult to make changes. Mulligan said they tried that unsuccessfully on the Beaverhead and Bighole Rivers. The Statewide River Management rules, adopted by the Commission, delineated this to be an ARM process.

Action: Workman moved and Mulligan seconded the motion to approve the administrative rules pertaining to the requirement of special recreation permits on the Blackfoot River as recommended by the Department.

Discussion: Loren Flynn, Chairman of the Blackfoot Steering Committee, said modifications made to the rule clarified some of the issues raised during the public comment period, and made it more concise and more easily used.

Land Lindbergh, a private landowner, feels this rule is a good compromise, and it is essential to proceed with the ARM Rule.

Action on Motion: Motion Carried.

When asked about what constitutes group size, Monger said there is not a group size, per se, but that will be addressed in biennial fee rules. Mulligan stated that he does not want to see permits take an extra period of time or become complicated if a group size is only a couple of people over the limit of the group size. There needs to be language in the EA and the fee rule that addresses that situation. Brenden agreed that there needs to be a common sense approach. Monger said they will take these comments into consideration in the fee rule.

10. Public Opportunity to Address Issues Not Discussed at this Meeting.

Robert Magnan, Fort Peck Tribes and Montana / Wyoming Tribal Fish & Game Commission, said that organization was formed in 1996 to work with state and federal agencies on fish and game issues. He came today to make known their desire to work cooperatively together. He said they met with the last commission to voice concerns, of which some were addressed and some were not. He said law enforcement training is still an issue, and he wanted to correct the misconception that all reservations are closed to hunting to anyone other than tribal members. They want to be included in Chronic Wasting Disease issues, as well as jurisdictional issues, particularly on deeded land on reservations. He also said he would like to see tribes develop a cooperative agreement with the state. Hagener suggested coordinating a meeting of the Tribal Commission with one of the FWP Commission meetings.

Tom McDonald, Confederated Salish & Kootenai Tribes, said their cooperative agreement is working well, and has been renewed numerous times. He said the tribes are actively engaged in restoration work on the Jocko River to bring it back to the flood plain and provide enhanced fish habitat.

Mark Azure, Director of the Ft. Belknap Reservation, stated that meeting with the FWP Commissioners on an annual basis would assist in keeping the lines of communication open.

Tim Vosberg, Rocky Boy Tribal Biologist, expressed his disappointment that HB378 didn't make it out of committee. He is discouraged and frustrated on this year's legislation.

Bill Eastman, Crow Tribal Fish & Game, said they plan to develop new programs.

Ron Moody, Lewistown, said education is important in addressing conflicts in hunting and fishing in Montana. Hunter education is a tool toward getting along with others. He suggested special responsibility hunter training, and said local people could assist in designing an educational program.

Hagener advised the Commission that Workman had asked the Department to look into lion hunting on a permit basis. Workman stated that he directed Region 1 to outline a process addressing his request. He feels there is a need for the change. Mulligan said Region 3 would not support such a proposal. Childress said there are low quotas in some areas. The number of lions taken by outfitted clients does not change, so percentage of harvest by non-residents increases. He added that the tentative quotas will be addressed in April so that would be an opportunity to start discussion on this. Childress said there will be several issues to work through if the Department goes to a permit season. Mulligan said the Commission needs to see the quotas and how close we stay to those numbers. He added the seasons close fast. Workman suggested the hunter pick his district. Some hunters kill cats and freeze them and drag them behind four wheelers to train dogs.

Hagener said Workman asked if the hunter safety course could be done on-line. Thomas Baumeister, FWP Education Bureau Chief, said it is important to have hands-on training with the youth. Baumeister said there is a policy that guides the Bowhunter Ed program. A field course is optional, however FWP strongly encourages it. The policy states that it is at the instructor's discretion to have a field day, and if they decide they will have one, students are required to attend. Baumeister said excused absences are accepted as long as they do not exceed 12 hours, but the time has to be made up. Baumeister said on-line training provides the reading and learning part, but students must attend a practical testing exercise. He added that there are 1,700 hunter education teachers statewide.

Hagener announced that the Western Association of Fish & Wildlife Agencies meeting will be held in Kananaskis, Alberta, July 21 – 27, 2005.

Action: Workman moved and Brenden seconded the motion to adjourn. Motion carried.

Meeting adjourned at 3:45 p.m.

Steven Doherty, Chairman

M. Jeff Hagener, Director